

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MAXIMILIAN KLEIN, et al.,
Plaintiffs,
v.
FACEBOOK, INC.,
Defendant.

Case No. [20-cv-08570-LHK](#) (VKD)

**ORDER RE DISCOVERY DISPUTE RE
DEPOSITION PROTOCOL**

Dkt. Nos.: 132, 152

As directed by the Court, the parties report that they have reached agreement on several aspects of their dispute concerning the protocol for deposition in these consolidated actions. Dkt. No. 152. The parties continue to disagree regarding the presumptive total hours cap for Rule 30(b)(1) and Rule 30(b)(6) deposition testimony of current Facebook employees. Plaintiffs propose 200 total hours and Facebook proposes 140 total hours. *Id.*

Given the parties' existing agreements, including the minimum charge for a deposition (3 hours), the presumptive maximum limit for an individual deposition (7 hours), and the presumptive limit for Rule 30(b)(6) testimony (21 hours), the parties' respective proposals for the hours cap may be summarized as follows:


1. Plaintiffs: Assuming plaintiffs use all of the 21 hours allotted for a Rule 30(b)(6) deposition, they will be able to take between 26 and 60 individual depositions of Facebook employees.
2. Facebook: Assuming plaintiffs use all of the 21 hours allotted for a Rule 30(b)(6) deposition, they will be able to take between 17 and 40 individual depositions of Facebook employees.

1 As the Court explained during the hearing on August 31, 2021 and in its interim order,
2 resolution of this dispute depends on a realistic estimate of the number of Facebook employees
3 who have relevant, non-duplicative testimony. *See* Dkt. Nos. 145, 146. The Court appreciates
4 that the parties do not have perfect information about potential witnesses at this stage of the
5 proceeding. However, plaintiffs support their position with a detailed explanation of why they
6 believe at least 54 individual employees will have relevant, non-duplicative testimony; Facebook
7 critiques plaintiffs' arguments but offers no support for an estimate of its own.

8 Accordingly, the Court adopts plaintiffs' proposal of 200 total hours as the presumptive
9 cap for Rule 30(b)(1) and Rule 30(b)(6) deposition testimony of current Facebook employees.
10 Any party may ask to revisit this aspect of the protocol if circumstances change, including if
11 Facebook successfully obtains a ruling from the presiding judge that narrows the scope of the
12 claims at issue and/or eliminates one of the plaintiff groups.

13 **IT IS SO ORDERED.**

14 Dated: September 20, 2021

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17 VIRGINIA K. DEMARCHI
18 United States Magistrate Judge
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